

Inner City Press

December 9, 2022

By ECF and/or E-mail to Chambers

Hon. Jesse M. Furman, United States District Judge
Southern District of New York, 40 Foley Square, New York, NY 10007

Re: Press application to unseal CIPA transcripts and other filings in US v. Schulte,
17-cr-548 (JMF)

Dear Judge Furman:

Inner City Press closely covered defendant Schulte's above-captioned criminal trial before this Court. Now, as provided in Docket 974, Inner City Press seeks the unsealing, at least in redacted form, of the CIPA transcripts. (The Classified Information Procedures Act, 18 U.S.C.A. App. §§ 1-16).

For a sealing order to survive, the specific, on-the-record findings the Court is required to make must satisfy the substantive test for closure and the record must support those findings. *Press-Enterprise II*, 478 U.S. at 13-15; *Oregonian Publishing Co. v. U.S. Dist. Court*, 920 F.2d 1462, 1466 (9th Cir. 1990). More specifically, the Court must find, and the record must reflect, that (1) closure serves a compelling interest; (2) there is a substantial probability that, in the absence of closure, that compelling interest would be harmed; and (3) there are no alternatives to closure that would adequately protect that compelling interest. In *re Washington Post*, 807 F.2d at 392; *Press-Enterprise I*, 464 U.S. at 510-11; see also *CBS, Inc.*, 765 F.2d at 826 ("excision from documents of names and transactions" is an alternative to sealing).

The Government, however, argued that releasing redacted transcripts would "mislead the public and engender unfounded speculation about the documents' contents." This anti-public arrogance (or paternalism) should be rejected. In fact, given the extraordinary SAMs imposed, rightly or wrongly, on the defendant in this case, it is imperative that transcripts, including with defendant's pro se participation, be unsealed to avoid inordinate secrecy.

This request to unseal is made in the context, in the parallel civil case in which the defendant now says he is unable to make filings, to Dkt No. 17, Schulte's April 22, 2022 letter to this Court, about "inhumane confinement conditions and other issues

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stemming from the government's investigation [of] the WikiLeaks Vault 7 disclosures."

It is also the case for Dkt No. 14, Affidavit Accompanying Motion for Permission to Appeal in Forma Pauperis; Dkt No. 8, regarding dismissal of motions in the case; Docket 6, Petition (Motion); Dkt No. 7, "Plaintiff Petition to End Torture;" and even Dkt No. 5, a letter seeking a hearing on why these filings are sealed.

We note an extension granted for filings in this vein until December 22 and seek permission to file any additional arguments by that deadline.

Please confirm receipt & again docket this filing. Thank you.

Respectfully submitted,

/s/

Matthew Russell Lee, Inner City Press

cc: david.denton@usdoj.gov, Joshua Schulte via Sabrina_Shroff@fd.org